

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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REMBRANDT 3D HOLDING LTD.,

Plaintiff,

-against-

STREAM TV NETWORK, INC.,
MATHU RAJAN, and RAJA RAJAN,

Defendants.
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No. 17 Civ. 00882 (RA)

**MOTION TO WITHDRAW AS
COUNSEL OF RECORD**

Pursuant to Local Civil Rule 1.4 of the United States District Courts for the Southern and Eastern Districts of New York, DLA Piper LLP (US), John R. Wellschlagel, Megan Shea Harwick, and Neal F. Kronley (collectively “DLA Piper”), file this Motion to Withdraw as Counsel of Record (“Motion”) and respectfully request that this Court grant DLA Piper leave to withdraw as counsel of record for Defendants Stream TV Network, Inc. (“Stream TV”), Mathu Rajan, and Raja Rajan (collectively, “Defendants”). This motion is premised on the following grounds:

1. On March 10 and 11, 2020, attorneys with the law firm Cittone Demers & Arneri LLP (“Cittone”) entered appearances as counsel of record for Defendants in this case [Dkt. Nos. 79, 81]. The individual Cittone attorneys who filed notices of appearance as counsel of record for Defendants are Henry J. Cittone and Antoaneta V. Tarpanova.

2. Mr. Cittone is now serving as lead counsel for Defendants in connection with this matter. As a result, Defendants no longer require that DLA Piper serve as their counsel in this case.

3. Because Cittone is now serving as Defendants' lead counsel, Defendants will not be prejudiced by the withdrawal of DLA Piper as their counsel in this case.

4. Furthermore, withdrawal would not impact the proceedings or prejudice Defendants. When a case is not on the verge of being tried and withdrawal will not unnecessarily delay the proceedings, counsel should be permitted to withdraw. *See Milltex Grp. Inc. v. Gossard & Berlei Ltd.*, No. 15 Civ. 10002 (RA), 2017 WL 9771811, at *1 (S.D.N.Y. Apr. 10, 2017) (Abrams, J.) (granting withdrawal where "[g]iven the posture of the case, withdrawal at this stage is unlikely to cause significant delays"); *Winkfield v. Kirschenbaum & Phillips, P.C.*, No. 12 Civ. 7424 (JMF), 2013 WL 371673, at *1 (S.D.N.Y. Jan. 29, 2013) ("withdrawal at this juncture will not substantially disrupt this litigation as discovery is in the early stages and the parties have not yet appeared for their initial pretrial conference with the Court"); *In re Fosamax Prods. Liab. Litig.*, No. 06 MD 1789 (JFK), 2012 WL 2122166, at *2 (S.D.N.Y. June 12, 2012) (finding plaintiff will not be prejudiced by withdrawal of counsel where "litigation [] has not progressed past the pleading stage").

5. This case is pre-discovery and far from trial ready. Indeed, no case management plan has been submitted, no discovery has been conducted, and the Court has before it a *sub judice* motion to dismiss Plaintiff's remaining causes of action pursuant to Fed. R. Civ. P. 12(b)(6), having previously dismissed patent infringement claims for lack of venue in 2018. (Declaration of John R. Wellschlager, dated Mar. 11, 2020 ("Decl.") ¶¶ 2, 6.) Accordingly, DLA Piper's withdrawal at this stage will not disrupt the litigation, and no prejudice will result from DLA Piper's withdrawal as counsel of record because the litigation is in its early stages.

6. As required by Local Civil Rule 1.4, DLA Piper states that it is not asserting a retaining or charging lien. (Decl. ¶ 7.)

7. DLA Piper makes this Motion with the consent of Defendants and has sent a copy of this Motion for delivery to Defendants via e-mail. (Decl. ¶ 8.)

WHEREFORE, DLA Piper respectfully requests that this Court grant the Motion and enter an Order granting DLA Piper LLP (US), John R. Wellschlager, Megan Shea Harwick, and Neal F. Kronley leave to withdraw as counsel of record for Defendants in the above-captioned case.

Respectfully submitted this 11th day of March, 2020.

DATED: March 11, 2020
New York, New York

DLA PIPER LLP (US)

By: 

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